

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**YOLANDA JOVEL and JOSE MEJIA,**

**Plaintiffs,**

**vs.**

**SAFECO INSURANCE,**

**Defendant.**

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**CIVIL ACTION NO.:**

**DEFENDANT’S NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §1446(a) and Local Rule CV-81(a), Defendant Safeco Insurance Company of Indiana (“Safeco” or “Defendant”), improperly served and sued as Safeco Insurance, files this Notice of Removal, hereby removing this action from the District Court, 68th Judicial District of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiffs Yolanda Jovel and Jose Mejia (“Plaintiffs”) and Safeco, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. In support of its Notice of Removal, Defendant would respectfully show the Court as follows:

**I.**

**INTRODUCTION**

This dispute arises from Plaintiffs’ claim for hail damage to their home located at 2819 Williams Way Court, Dallas, Texas 75228-2309, (the “Property”). Plaintiffs allege that Defendant breached a policy of insurance, and violated certain provisions of the Texas Insurance Code and Texas Deceptive Trade Practices Act (“DTPA”) by, among

other things, failing to pay Plaintiffs' claim for damages resulting from an alleged hailstorm.

On December 2, 2015, Plaintiffs filed their First Amended Petition in the District Court, 68th Judicial District of Dallas County, Texas. Safeco was personally served with a citation and a copy of Plaintiffs' Original Petition on November 12, 2015 through its registered agent for service of process. Defendant timely filed answers to Plaintiffs' Original and First Amended Petitions. This Notice of Removal is being filed within thirty (30) days of service of the First Amended Petition, and is thus timely filed under 28 U.S.C. §1446(b).

## **II.**

### **BASIS FOR REMOVAL**

#### **A. DIVERSITY OF CITIZENSHIP**

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiffs Yolanda Jovel & Hose Mejia are citizens of Texas. *See* Plaintiffs' First Amended Petition ¶3. Safeco Insurance Company of Indiana<sup>1</sup> is a corporation organized under the laws of the State of Massachusetts, with its principal place of business in Boston, Massachusetts.

#### **B. AMOUNT IN CONTROVERSY**

##### ***1. Standards***

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiffs' First Amended Petition that their claims exceed \$75,000.00. In paragraph 70 of the First

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<sup>1</sup> Safeco Insurance—whom Plaintiffs name as defendant in their First Amended Petition—is not an actual entity.

Amended Petition, Plaintiffs state that “Plaintiffs seeks monetary relief of not more than \$100,000.” *See* Plaintiffs’ First Amended Petition, ¶ 70.

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiffs’ citizenship is diverse from Safeco. Finally, as alleged in their First Amended Petition, Plaintiffs seek to recover no more than \$100,000.00 from Defendant. Therefore, the amount in controversy in this case clearly exceeds \$75,000.00.

**CONSENT TO REMOVAL UNNECESSARY**

Safeco is the only defendant named in Plaintiffs’ First Amended Petition. Thus, no additional consent is needed for removal.

**III.**

**COMPLIANCE PROCEDURAL REQUIREMENTS**

As required by Local Rule 8.1(a), filed concurrently with this Notice of Removal is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with LR 3.1(c). Additionally, the following exhibits are attached:

- **EXHIBIT A** Index of all documents filed in state court;
- **EXHIBIT B** Register of Actions in the state court action;
- **EXHIBIT C-1 - C-4** A copy of each document filed in the state court action.

Pursuant to Section 28 U.S.C. §1446(d), Defendant will give written notice of filing of this Notice of Removal to all adverse parties promptly after the filing of same.

Pursuant to 28 U.S.C. §1446(d), Defendant will file a true and correct copy of this Notice of Removal with the District Clerk, 68th Judicial District, Dallas County, Texas promptly after filing of same.

**IV.**

**CONCLUSION AND PRAYER**

Based on the foregoing, Defendant Safeco Insurance Company of Indiana respectfully requests that the above-captioned action now pending in the District Court, 68th Judicial District, Dallas County, Texas be removed to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

*/s/ Mark D. Tillman*

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**ATTORNEYS FOR DEFENDANT  
SAFECO INSURANCE COMPANY OF  
INDIANA**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of the foregoing has been forwarded to Plaintiffs' counsel of record via electronic means and/or facsimile, on the 29th day of December, 2015, in accordance with the FEDERAL RULES OF CIVIL PROCEDURE.

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*/s/ Mark D. Tillman*

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